

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: NEW ENGLAND COMPOUNDING  
PHARMACY, INC. PRODUCTS LIABILITY  
LITIGATION

MDL No. 2419  
Master Dkt. 1:13-md-02419-RWZ

THIS DOCUMENT RELATES TO:

All Actions; MDL Dkt. No. 1619

**THE PLAINTIFFS' STEERING COMMITTEE'S OPPOSITION TO LIBERTY  
INDUSTRIES, INC.'S MOTION FOR RECONSIDERATION OF THE COURT'S  
MEMORANDUM OF DECISION DATED DECEMBER 23, 2014 DENYING LIBERTY  
INDUSTRIES, INC.'S MOTIONS FOR SUMMARY JUDGMENT**

This Court has gone to great lengths to adjudicate the Motions for Summary Judgment filed by Liberty Industries. Inc. ("Liberty"). Having considered all of the arguments and deciding that genuine questions of material fact are in existence, this Court has determined that summary judgment is not appropriate at this time. Liberty proffers its argument for reconsideration on grounds that the Court should not have considered the PSC's opposition because it was filed after 6pm, that the Court should not have considered the PSC's expert affidavit because of a formality, and that the Court acted too quickly in issuing its decision.<sup>1</sup>

The Court has the discretion and authority to consider the PSC's opposition, the expert declaration attached to it, and to issue an expeditious ruling. The expediency of the Court's action was particularly fitting and foreseeable given that Liberty has argued repeatedly that a decision on these motions is urgent due to insurance coverage lapsing by December 29, 2014 and the imminent threat of bankruptcy. The Court required, "[g]iven the time pressures in this matter,

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<sup>1</sup> Pleadings in this MDL which have been filed on the due date have been accepted. No objections have been made to pleadings filed after 6pm.

plaintiffs shall file any substantive opposition to Liberty's motion for summary judgment by December 22, 2014.”<sup>2</sup> The PSC complied.

Lastly, the PSC objects to an oral argument on Liberty's motion for reconsideration. The Court decided the original motion on the pleadings and can surely do the same with Liberty's latest motion.

Dated: January 7, 2015

Respectfully submitted,

/s/ Kristen A. Johnson

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<sup>2</sup> Dkt. 1601, December 17, 2014 Order Denying the PSC's Rule 56(d) Response.

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**CERTIFICATE OF SERVICE**

I, Kristen A. Johnson, hereby certify that I caused a copy of the foregoing to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: January 7, 2015

**/s/ Kristen A. Johnson**  
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